

REMARKS

Claims 1-27 are pending in this application. All of the pending claims are rejected. Claims 1, 6, 12, and 20 are currently amended. Support for the claim amendments is in the specification at page 12, line 16. Reconsideration is requested.

Claims 1-11, 13-19 and 22-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject which Applicant regards as the invention. The basis for the rejection is that the specification allegedly *fails to define* what is a requirement and non-requirement, as recited in claims 1, 6, 13 and 22. Because the Examiner has misconstrued section 112, Applicant respectfully traverses. There is no requirement in section 112, or elsewhere in the U.S.C., CFR, MPEP, or U.S. Constitution that Applicant must *define* every term in the claims. To the contrary, the words of the claim must be given their plain meaning by the Examiner unless the plain meaning is inconsistent with the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004) (Ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say.). The Examiner will find that the terms “requirement” and “non-requirement” are used in accordance with their plain meanings at pages 33-36 of the specification. Withdrawal of the rejection is therefore requested.

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2002/0156914 (“Lo”). The Examiner was not persuaded by Applicant’s previously submitted argument that Lo fails to teach determining and provisioning services required by a user application. In response to that argument, the Examiner quotes a section of paragraph [0009] of

Lo as suggesting the limitation. However, the involvement of a **user application** is noticeably absent from the quoted passage. Applicant submits that the Examiner has failed to give weight to the limitation that is the services required by a **user application** that are determined and provisioned. Lo not only fails to teach or suggest that limitation, but specifically teaches that services required by other things cause the controller to act. For example, at paragraph [0009] Lo states that “the service controller is operable to automatically set up paths and dynamically balance the bandwidth utilization among a plurality of selected paths **in response to current traffic requirements on the plurality of selected paths.**” (emphasis added) In paragraph [0027] Lo states that “the controllers 10 provide the capability of configuring the interconnection of optical resources **in order to respond to congestion or increased demand in the packet layer.**” (emphasis added) In paragraph [0030] Lo states that “the controllers 10 adapt the allocation of resources **to network traffic** by creating, aggregating, and changing the characteristics of the MPLS paths.” (emphasis added) Note that in each instance the action is taken in response to the **condition of the network**. In contrast, the presently claimed invention reaches out to ascertain the **requirements of the user application** to determine and provision required services. At paragraphs [0041-0042] Lo states that connectivity is established based on “user-defined policies” and “user-defined traffic requirements.” However, there is no implication that the policies and traffic requirements would be automatically obtained from the user application. Consequently, the services provided by Lo’s controller would not be application-specific, but rather application-generic. The independent claims are amended to emphasize that one result of ascertaining the requirements and non-requirements of the user application is that the resulting services are **application-specific**. This is advantageous because different user applications may have different requirements. In accordance with the Examiner’s

interpretation of Lo, the network resources for all of a user's applications would be configured to support the most stringent requirements of the user applications as a group, resulting in the undesirable waste of resources on the user applications having less stringent requirements. The presently claimed invention helps to avoid that waste by operating in response to individual user applications. Withdrawal of the rejections is therefore requested.

For the reasons stated above, this application is now considered to be in condition for allowance and such action is earnestly solicited. The Office is encouraged to contact Applicants' Attorney at 978-264-4001 to discuss any issues which might expedite allowance of this application.

Respectfully Submitted,

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Date

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